

Message

From: Karl Farris [KFarris@hilanddairy.com]
Sent: 2/17/2017 9:23:22 PM
To: Mills, Clarissa [mills.clarissa@epa.gov]
Subject: RE: Belfonte: Follow-Up and Next Steps

Ms Mills

As discussed, we are implementing an ARM program for the Belfonte facility in Kansas city. I have read your SEP policy and it seems to be a matter of semantics on determining the application of the ARM program development as a feasible SEP project. SEP projects cannot be those things already required by the law or code. The ARM program is a strictly voluntary program not required by any law or code, but it serves as a vehicle to ensure that both codes and good practices are performed and managed. It's a bit of a conundrum, a highly beneficial, voluntary program facilitating practices, some of which are code, law or at least guidelines and recommendations.

Regardless of this conundrum, an ARM program is what the facility needs and would benefit from. The elements of the ARM program include:

- Management system
- Refrigeration system documentation
- Operating procedures
- Preventative maintenance program
- Contractor control
- Emergency response
- Incident investigation
- Training
- Hazard review procedures
- Refrigeration system change procedures

Please share your thoughts on applicability and whether we can proceed.

Karl Farris
Safety Manager
Hiland Dairy
Cell 417-315-4965

▼ "Mills, Clarissa" ---02/10/2017 12:53:44 PM---Mr. Farris, The question is whether the ARM program addresses elements that are already required und

From: "Mills, Clarissa" <mills.clarissa@epa.gov>
To: Karl Farris <KFarris@hilanddairy.com>
Cc: "Blunk, Terri" <Blunk.Terri@epa.gov>, "dsanders@belfontedairy.com" <dsanders@belfontedairy.com>
Date: 02/10/2017 12:53 PM
Subject: RE: Belfonte: Follow-Up and Next Steps

Mr. Farris,

The question is whether the ARM program addresses elements that are already required under the General Duty Clause of the Clean Air Act, Section 112(r)(1) or whether there are elements that go above and beyond what is statutorily required for your facility. As we discussed during the meeting, while Belfonte may not be required to submit an RMP for the facility due to being under threshold, the elements of the General Duty Clause must still be met. Further, if you have gone above and beyond compliance, any projects you completed as part of the program would need to align with the requirements set forth in the SEP Policy that I emailed you yesterday. I would urge you to read through that policy and perhaps you could help us fast track this process by specifically detailing what you believe you have completed (or will complete) that meet with the requirements of the SEP policy. If upon your review you believe the projects and elements meet the SEP policy requirements we can discuss Belfonte submitting a SEP proposal, which would include financial documentation and other information concerning the project in order to calculate the percent mitigation approval.

Clarissa Howley Mills
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From: Karl Farris [<mailto:KFarris@hilanddairy.com>]
Sent: Friday, February 10, 2017 9:53 AM
To: Mills, Clarissa <mills.clarissa@epa.gov>
Cc: Blunk, Terri <Blunk.Terri@epa.gov>; dsanders@belfontedairy.com
Subject: Re: Belfonte: Follow-Up and Next Steps

Ms Mills/ Blunk

I am curious about the ARM program being under consideration as a SEP project. In my way of thinking, the ARM program we are developing is exactly what we and all non PSM/RMP facilities need. It is strictly an optional program that will enable us to manage the system with policies and procedures for all aspects of ammonia process including emergency response, incident reporting and contractor control.

I would like to pursue this as a viable SEP option, but do not want to come across as demonstrating a lack of cooperation and/or willingness to settle.

Any input would be appreciated.

Thanks

Karl Farris
Safety Manager
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Cell 417-315-4965

▼"Mills, Clarissa" ---02/09/2017 05:48:34 PM---Mr. Farris and Mr. Sanders, Thank you again for meeting with Terri and myself, we appreciate you tak

From: "Mills, Clarissa" <mills.clarissa@epa.gov>
To: "KFarris@hilanddairy.com" <KFarris@hilanddairy.com>, "dsanders@belfontedairy.com" <dsanders@belfontedairy.com>
Cc: "Blunk, Terri" <Blunk.Terri@epa.gov>
Date: 02/09/2017 05:48 PM
Subject: Belfonte: Follow-Up and Next Steps

Mr. Farris and Mr. Sanders,

Thank you again for meeting with Terri and myself, we appreciate you taking the time to meet with us and the steps Belfonte has taken thus far to come into compliance and resolve this matter. The following is the follow-up to our meeting I promised and information concerning next steps.

First, during our meeting we discussed that Terri and I would re-review our penalty calculation based on the information you provided concerning the facility and compliance steps you have taken. I will break out the adjustments we made by violation.

1. Failure to notify SERC. As discussed during the meeting, we had calculated the penalty for this violation at \$38,886 by applying the cell amounts on page 21 of the Penalty Policy (see attached), which are calculated based on the quantity of the release and lapse in time before notification was made) and adjusting for inflation (multiplier of 1.41402). Utilizing the circumstance factors set forth on page 17 of the Penalty Policy, the top of the cell was chosen due to the injury, proximity to and evacuation of neighboring businesses and because this is not the first action EPA has had with Belfonte for late release reporting. After speaking with you about the facility and circumstances surrounding the release, we have adjusted this penalty amount to \$36,765. Please note that one of the primary reasons for assessing penalties when violations occur is to deter people from violating the

law. Specifically, the penalty should persuade the violator to take precautions against falling into noncompliance again. Unless there is further evidence regarding your response to the release, we really cannot justify going below the proposed amount for this violation.

2. Failure to provide a written follow-up to SERC and LEPC. As discussed during the meeting, we had also calculated this portion of the penalty by applying the cell amounts on page 21 of the Penalty Policy and adjusting for inflation. Further, since there are no anticipated long term environmental impacts related to this release we had reduced the penalty by an additional 60% to bring the penalty in line with 311 planning violations, resulting in a proposed violation amount of \$14,706. After our discussions we have adjusted this penalty amount to \$13,575.

Due to your cooperation, exhibited willingness to settle, and efforts to come into quick compliance (especially including your efforts to develop an Ammonia Refrigeration Management (ARM) Program, we would propose reducing your penalty by an additional 25%. Further, if we are able to reach a settlement within the next 60 days, we would propose reducing your penalty by an additional 10%, resulting in a penalty amount of **\$32,720**. As detailed in the pre-filing letter, administrative matters are not finalized or concluded until a Consent Agreement and Final Order is signed by all the parties and filed with and signed by the Regional Judicial Officer. These additional reductions in the penalty would be contingent upon settlement within approximately 60 days.

Second, next steps. The next step for Belfonte is to let us know how you would like to move forward to resolve this matter. As a reminder, the matter is resolved once a Consent Agreement and Final Order are entered into and a civil penalty is paid. If you do not agree to the penalty amount proposed above, there are a number of options available to you to further adjust the amount and they are as follows:

1. SEP – As discussed, one way to mitigate your penalty is to perform a Supplemental Environmental Project (SEP). I have attached the policy for SEPs to this email. We are currently reviewing the documentation you provided relating to the ARM to see if those activities would qualify for penalty reduction based on the SEP policy. If you have any additional projects you would like to propose as SEPS that fit within the categories (pages 11-17) and nexus requirement (page 7), you would need to present those to Terri and myself and then we would discuss and determine how they would impact the penalty.
2. Next Gen – The EPA also encourages consideration of Next Generation compliance tools in administrative settlements. There are a number of tools available to discuss, but we believe that electronic reporting may be appropriate in this matter and I would encourage you to take a look at the attached NextGen policy.

3. Ability To Pay (ATP) – If you believe that Belfonte does not have the financial ability to pay the proposed penalty and would like EPA to consider Belfonte's financial condition, Belfonte can make an ATP claim, which includes providing us with the last 3 years of filed tax returns and completing an ATP claim form. Please let me know if you would like EPA to consider Belfonte's ATP and I will send you the ATP claim form.

Third, you expressed some difficulty making contact with MERC and we discussed providing you with additional contact information: Karen Eagleson at (573) 526-9240. We understand Karen is out this week but should be back next week.

Please feel free to reach out to Terri or myself with any questions you may have. I would appreciate hearing from you again in response to how you would like to move forward within 10 business days.

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[attachment "sepupdatedpolicy15.pdf" deleted by Karl Farris/prairiefarms] [attachment "memo-nextgen-useinenfsettlements.pdf" deleted by Karl Farris/prairiefarms] [attachment "EPCRA 304, 311, 312 and CERCLA 103.pdf" deleted by Karl Farris/prairiefarms]